

**Assembly Bill 2771 (Leno)**  
**Free online filing; online filing threshold**  
**Version: As proposed to be amended**  
**Status: Assembly Elections Committee (4/18)**

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**Summary**

Assembly Bill 2771 would: 1) make findings regarding the lack of a functional free online filing system for smaller general purpose committees and slate mailer organizations to comply with the online filing requirements of the Political Reform Act; 2) provide general purpose committees and slate mailer organizations with a 3-year rolling period for qualifying for online filing; and 3) delete a prohibition against enhanced functions or services that exceed the minimum requirements necessary to comply with the Online Disclosure Act.

Proposed amendments to the bill would: 1) amend the 3-year rolling period for a slate mailer organization to qualify for online filing to clarify that the \$50,000 threshold is measured in reportable payments made or received, rather than by contributions and expenditures; and 2) re-insert most of the language prohibiting services that exceed those necessary to comply with online disclosure requirements, but allowing enhancements that will make free online filing easier to use.

**Recommendation**

Staff recommends the Commission adopt a position of "support" on this bill, as it is proposed to be amended, because it will provide for a more functional online filing option.

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**Background**

The Online Disclosure Act was added to the Political Reform Act as Chapter 4.6 by SB 49 (Karnette) (Chapter 866, Statutes of 1997). The bill required that the Secretary of State develop an online disclosure system for state committees, lobbyists and lobbyist employers, and required those who reached \$100,000 in specified receipts and expenditures in connection with the 2000 statewide primary election (and lobbyists who reached that threshold in a single quarter) file online. The bill also required committees that reach \$50,000 in cumulative receipts and expenditures since 2000 to file electronically, so that, over time, most ongoing committees will qualify for electronic filing.

In 2001, the AB 696 (Longville) was signed into law (Chapter 917), requiring the Secretary of State (SOS) to provide a means for individuals to make the mandatory electronic or online filings free of charge. AB 696 required the free filing option to be made available by December 31, 2002, and appropriated \$600,000 to SOS for that purpose. To date, SOS has developed a free filing option for all quarterly lobbying disclosure forms and for several of the campaign disclosure forms, but has not yet deployed the free filing option for several other campaign disclosure forms. The option for filing the Form 460 (the main campaign statement) is rudimentary and would be difficult to use for reporting more than a modicum of activity.

In 2004, SOS sponsored SB 1849 to lower the thresholds for electronic filing, but the Commission opposed the bill on the ground that no additional filers should be added until the free online filing system that had been mandated since December 31, 2002, was provided by SOS. The bill would have pushed that deadline out to January 1, 2006. Governor Schwarzenegger provided the following message in vetoing the bill:

I am returning Senate Bill 1849 without my signature. This bill would lower certain monetary thresholds which trigger electronic filing requirements. On-line campaign reporting is one of the most significant advancements in the area of political reform, since the original passage of the Political Reform Act in 1974. Under existing law, the Secretary of State was required, by December 31, 2002, to provide a means or method whereby filers subject to the Online Disclosure Act may submit required filings free of charge. While the Secretary of States Office has reported significant progress toward the development of a free on-line filing system, the system has not been completed. Although I have no issues with the concept of lowering the threshold to utilize online filing systems, the system is not ready. Today I have signed SB 1712 which would require the Secretary of State to report on the filing requirements to promote on-line submissions. When that report is complete or if the system is developed beforehand, then the lowering of the threshold would be appropriate. For this reason I am returning this bill without my signature. Sincerely, Arnold Schwarzenegger

Specifically, SB 1712 (Alpert) required that the Secretary of State “Review current filing and disclosure requirements of this chapter and report to the Legislature, no later than June 1, 2005, recommendations on revising requirements so as to promote greater reliance on electronic and online submissions.”

On June 1, 2005, the Secretary of State sent a letter to the Legislature recommending, among other things, the elimination of paper, and a move to data-driven rather than form-driven reporting, and strongly suggesting a move to 24-hour reporting for all state committees in order to resolve what he saw as an overly complicated set of requirements. The three-page letter explained, with regard to free online filing system, that “[a] free, web-based online filing system developed by the Secretary of State and named Cal-Online is available to submit most lobbying reports and a handful of the least complicated campaign reports. Development of a complete suite of free, online registration and disclosure ‘forms’ has stalled for lack of funding.”

### **Analysis**

The Online Disclosure Act always contemplated a point at which paper filings would be eliminated, but requires that the Secretary of State consult with the Commission in making the determination to do so. Online disclosure has reached the point that larger filers are able to comply with the disclosure requirements of the Act with the help of software vendors, but smaller filers are forced to either continue to file on paper, pay considerable fees to vendors to electronically file relatively little activity, or use the incomplete online forms SOS offers.

This bill acknowledges the inadequacy of these options, and gives smaller filers more flexibility by creating a rolling three-year period for qualification under the \$50,000 threshold that triggers the requirement to file online. For example, a slate mailer organization that has had an average

of \$10,000 in reportable payments per year since 2000 is required under existing law to file electronically by the beginning of this year. But under AB 2771, the same slate mailer organization would not be required to file electronically, and so would have the option of continuing to file on paper, because under the bill it would have only \$30,000 in reportable payments during any three-year period.

Moreover, the proposed amendment to the language prohibiting additional services (which deletes the prohibition against enhancements) allows SOS to provide free online filing screens so that smaller filers will be more likely to use them. In particular, relatively minor improvements to the Form 460 would make smaller, paper filers much more likely to move to electronic filing. For instance, the ability of the online form to carry forward cumulative totals, to automatically fill in address, occupation and employer information for contributors who have made multiple contributions, and to save reports between sessions in order to file them at a later time would improve what is currently offered. SOS concedes that, while their system allows users to save data they have input before officially filing, certain updates that SOS does to its database will wipe out all data that was saved but not filed. Problems like this do little to encourage voluntary electronic filing.

In the past, as SOS has sponsored legislation both to lower electronic filing thresholds *and* to eliminate paper filings, the Commission has been consistent with one message: deliver on the mandate to provide free online filing sufficient to meet all the campaign and lobbying disclosure requirements of the Act before making those other changes. This bill is consistent with that approach.

### **Fiscal Impact**

Potential minor increase in advice line calls as some smaller filers who had been filing through vendors seek guidance in filing paper statements.